

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KEVIN SELKOWITZ, an individual

Plaintiff,

v.

LITTON LOAN SERVICING LP, a
Delaware Limited Partnership; NEW
CENTURY MORTGAGE
CORPORATION, a California
Corporation; QUALITY LOAN
SERVICE CORPORATION OF
WASHINGTON, a Washington
Corporation; FIRST AMERICAN TITLE
INSURANCE COMPANY, a Washington
Corporation; MORTGAGE
ELECTRONIC REGISTRATION
SYSTEMS, INC., a Delaware
Corporation; and DOE Defendants 1–20,

Defendants.

CASE NO. C10-5523-JCC

ORDER ON MOTION FOR
RECONSIDERATION

This matter comes before the Court on Defendant First American Title Insurance Company’s motion for reconsideration of the Court’s order (1) vacating its prior order granting, *inter alia*, First American’s motion to dismiss and (2) remanding this case to King County Superior Court. (Dkt. No. 57.) First American correctly clarifies that, while Defendants Litton Loan Servicing LP’s and Mortgage Electronic Registration Systems, Inc.’s (“MERS”) motion to

1 dismiss was premised on the argument that “MERS[] [can] hold a Deed of Trust as the
2 beneficiary and . . . agent (or nominee) of the lender” (Dkt. No. 8 at 11), First American’s motion
3 to dismiss was not premised on that argument. Rather, First American

4 demonstrated [in its motion to dismiss] that the pleadings described [First
5 American’s] only involvement as having been the original trustee named in the
6 deed of trust who was replaced by another trustee before any foreclosure process
7 was initiated against Selkowitz. First American argued that it should be dismissed
8 because all the wrongful conduct alleged by Selkowitz occurred after the new
trustee was substituted and Selkowitz did not describe anything actually done by
First American.

9 (Dkt. No. 57 at 2.) First American asks the Court either to reinstate its order dismissing
10 Selkowitz’s complaint as to First American, or, in the alternative, to clarify that First American’s
11 motion to dismiss was not premised on an argument implicated by the Washington Supreme
12 Court’s decision in *Bain v. Metropolitan Mortgage Group, Inc.*, 285 P.3d 34 (Wash. 2012).

13 The Court DENIES First American’s request to reinstate the Court’s prior order of
14 dismissal. Reinstating that order would require the Court to exercise supplemental jurisdiction
15 over Selkowitz’s claims. For the reasons discussed in the Court’s November 14th order, the
16 Court declines to exercise such supplemental jurisdiction over Selkowitz’s complaint, which
17 states only state-law claims. *See* 28 U.S.C. § 1367(c). The Court GRANTS First American’s
18 request to clarify that First American’s motion to dismiss was not premised on the argument that
19 MERS is a lawful beneficiary under the Washington Deed of Trust Act, and the *Bain* decision
20 does not bear on the arguments First American advanced in its motion. The Court’s order (Dkt.
21 No. 55) should not be read to state the contrary. First American may renew its motion to dismiss
22 in the Superior Court. A certified copy of this order shall be transmitted without delay to the
23 clerk of the State court.

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1 DATED this 15th day of November 2012.

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8 John C. Coughenour
9 UNITED STATES DISTRICT JUDGE
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